

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 02-0416P

**Withholding Tax
For December 31, 2001**

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ISSUE(S)

I. **Tax Administration** – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer filed its WH-1 and payment late and was assessed a late payment penalty. In a letter dated August 13, 2002, taxpayer protests the penalty assessed because it has filed returns for thirteen (13) years without incident. Taxpayer states that its accountants had to revise some of the preliminary information it supplied and the accountants needed additional time to revise the depreciation schedules. Unfortunately, their accountants sent the completed partnership return and withholding tax return to the wrong address. Taxpayer states that it had moved to a new location. When it realized that it had not received a return, the taxpayer contacted its accountant. As soon as the taxpayer received the newly generated returns, they were forwarded to the Department. Taxpayer requests a penalty waiver because it was not careless in its duty to file and remit tax to the state.

I. **Tax Administration** – Penalty

DISCUSSION

Taxpayer was assessed a ten percent (10%) penalty because it paid its tax after the due date of the return for December 31, 2001.

Taxpayer, in a letter dated August 13, 2002 protested the penalty assessed and stated that it hires professionals to assist in its duty to file and remit tax, therefore, it used ordinary business care and prudence to meet its tax obligation to the state. The late filing was primarily due to an

accident of using an incorrect address and not through gross neglect.

Actions of the taxpayer's representative are also the actions of the taxpayer. Taxpayer apparently did not inform its representative that it had a change of address causing the return to be filed late. Taxpayer has not provided reasonable cause to allow a waiver of the penalty assessed.

FINDING

Taxpayer's protest is denied.